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December 8, 2000

Exemption No. 7396

Regulatory Docket No. FAA-2000-7992 - 2

Mr. George V. Hartley
Hartley, Inc. dba Branch River
Air Service
P.O. Box 545
King Salmon, AK 99613

Dear Mr. Hartley:

By letter dated September 14, 2000, you petitioned the Federal Aviation Administration (FAA) on behalf of Hartley, Inc. dba Branch River Air Service (Branch River) for an exemption from § 135.143(c)(2) of Title 14 Code of Federal Regulations (14 CFR) to the extent necessary to permit Branch River to operate certain aircraft under part 135 without a TSO-C112 (Mode S) transponder installed in the aircraft.

The FAA issued a grant of exemption in circumstances similar in all material respects to those presented in your petition. In Grant of Exemption No. 6120 (copy enclosed), the FAA found that the ground sensors necessary for Mode S transponders, as envisioned by the FAA, have not become operational. The FAA noted that without functioning ground sensors, a Mode S transponder offers no reduction in air traffic control separation criteria or increase in traffic flow over that provided by a Mode C transponder. The FAA determined that no safety advantage is gained by requiring Mode S transponders to be used in aircraft operating under part 135 without the necessary ground sensors. In addition, it would not be in the public interest to compel persons such as the petitioner, who are uniquely burdened by the rule, to purchase and install Mode S transponders.

Having reviewed your reasons for requesting an exemption, I find that they do not differ materially from those presented by the petitioner in the enclosed grant of exemption. In addition, I have determined that the reasons stated by the FAA for granting the enclosed exemption also apply to the situation you present.

In consideration of the foregoing, I find that a grant of exemption is in the public interest. Therefore, pursuant to the authority contained in 49 U.S.C. §§ 40113 and 44701, delegated to me by the Administrator,

AFS-00-747-E

Hartley, Inc. dba Branch River Air Service, is granted an exemption from 14 CFR § 135.143(c)(2) to the extent necessary to operate certain aircraft, subject to the following conditions and limitations:

1. Any aircraft listed on Branch River's part 135 operations specifications at the date of issuance of this exemption may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder.
2. Any other aircraft for which installation of a transponder is needed may be operated when equipped with any TSO-C74b transponder or TSO-C74c transponder, provided notice is given to Branch River's principal operations inspector.

This exemption terminates on December 31, 2002, unless sooner superseded or rescinded.

Sincerely,

/s/ Anthony F. Fazio
Director, Office of Rulemaking

Enclosure

AFS-00-747-E (Docket No. FAA-2000-7992) Exemption No. 7396, 12/08/00

Mr. George V. Hartley
Hartley, Inc. dba Branch River Air Service
P.O. Box 545
King Salmon, AK 99613

Certificate holding region: AAL-200, Flight Standards service, Alaskan
Region.